REMARKS

Claims 1-5 and 7 have been amended, and claim 6 canceled, to improve the clarity of the claimed subject matter and to bring the claims into conformity with U.S. practice and format, and to place the application fully in condition for allowance.

Figure 5 (Replacement Sheet) has been corrected to include reference numeral 3 (as disclosed in the original specification).

Claims 1-5 and 7 remain pending upon entry of the amendments to the claims above.

Claim Rejections under 35 U.S.C. § 103

Claims 1-7 are rejected under 35 USC 103 as being unpatentable over U.S. 5,235,653 (Kovacs et al.) in view of U.S. 6,546,924 (Battersby et al.). Claim 6 has been canceled, and the remaining claims have been amended to more distinctly claim the inventive subject matter in accord with U.S. practice and format. If the earlier rejection is to be maintained with regard to the pending claims, Applicant most respectfully traverses such finding.

Applicant most respectfully wishes to direct the Examiner's attention to the basic requirements of a prima facie case of obviousness as set forth in the MPEP. MPEP § 2143 states that to establish a prima facie case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the prior art references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the teachings of the reference. Second,

there must be a reasonable expectation of success for the modification. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Further, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

MPEP § 2143.03 states that all claimed limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art". *In re Wilson* 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. In re Fine 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

Independent claim 1 has been amended to positively recite that the display (14) is visible from the vicinity of the control plate (2).

With regard to the base reference to Kovacs et al., the Examiner acknowledged that on the body of the device thereof there does not appear to be a display to signal to a user about the status of the ball throwing activity of the machine, and that such display would be useful to enable the user to prepare for the thrown ball. The Examiner seeks to modify the base reference of Kovacs et al. according to the teachings of Battersby et al. which shows a display visible to a batter.

The Examiner will note that in the claimed invention, the control plate (2) is placed at a hitting area. An object of the claimed invention is to combine a control plate (2) together with a ball-hurling machine (1). Since the claimed control plate (2) is preferably placed at the home base, a hitter standing adjacent to the home base can choose the mode of the ball that is to be thrown out of the ball-hurling machine. This combination of having a control plate that is placed at the home base allows for the

greatest control of the ball-hurling machine by the hitter, and such combination is neither taught, disclosed or suggested in the prior art, including Kovacs et al. as modified by Battersby et al.

With regard to the base reference to Kovacs et al., this device shows a control plate and the control plate is not placed at the home base (i.e., baseball) and, therefore, this device cannot be controlled easily by the hitter. In the present invention, the hitter stands in front of the home base/controller and the hitter may contact the home base/controller with his bat, in order to press the various press buttons (21). Therefore, the home base/control plate, having such controlling function controls the displays on the machine showing which modes of balls that are to be thrown out of the ball-hurling machine. Such a device would be most ideal for a hitter to control the ball-hurling machine.

With further regard to the base reference to Kovacs et al., as modified by Battersby et al., Applicant respectfully submits that the only motivation to modify the base reference (which does not have any display that is clearly visible to the user) for combination with the device of Battersby et al. (which does not have a remote control plate, and thereby there is no communication between a control plate and the ball-throwing machine), is only found in Applicant's disclosure. The combination of a ball-hurling machine having visible displays that are clearly visible to a hitter and a remote control (control plate 2) that is usable as a home plate, and therefore easily controlled by the hitter, is neither taught, disclosed nor suggested in the prior art.

In view of the amendments; to the claims, and the remarks above, withdrawal of this rejection is respectfully requested.

In summary, it is respectfully submitted that none of the prior art individually or collectively shows the invention as claimed. Accordingly, withdrawal of the rejection of the claims appears to be warranted and the same is respectfully requested. In the

event there are any outstanding matters remaining in the present application which can be resolved by a telephone call or facsimile communication to Applicant's Attorney, the Examiner is invited to contact the undersigned by telephone or facsimile at the numbers provided below.

Respectfully submitted,
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AMENDMENTS TO THE DRAWINGS:

Please enter the appended Replacement Sheet containing corrected Figure 5.